



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

**Testimony of Deborah J. Fuller
Housing Committee Public Hearing
March 3, 2010**

House Bill 5369, An Act Concerning Foreclosure Mediation

Good afternoon Senator Gomes, Representative Green and members of the Housing Committee. I would like to thank you for the opportunity to testify, on behalf of the Judicial Branch, on **House Bill 5369, An Act Concerning Foreclosure Mediation**.

This proposal would extend the Judicial Branch's Foreclosure Mediation Program, which is due to expire at the end of this fiscal year, for one additional year. We support extending the program but would respectfully suggest that a 2-year extension is more appropriate, since all signs indicate that the mortgage foreclosure crisis is far from over. In fact, the number of foreclosure cases filed in court continues to rise. A comparison of the 3-month period from October 1 through December 31 in 2008 to the same period in 2009 shows that there was an 18.7% increase in the number of foreclosure cases added. Based on this information, we believe that the need for the program will continue for at least another two years.

The remainder of the bill would put in statute the Uniform Foreclosure Mediation Standing Orders that the Judicial Branch recently adopted. We support the codification of the portions of these orders that are substantive but are opposed to codifying the provisions that are purely procedural. The Judicial Branch must retain the ability to amend our procedures as needed, based on the experience of the judges and staff who work in our courts. Codifying procedures will diminish that flexibility by requiring us to seek legislation every time a change is needed. In contrast, standing

orders can be amended by the judges at any time. For this reason, we request that the following changes to the language of the bill:

- Delete the first sentence in subsection (4) (lines 116 to 120), as it may very well prove to be unduly restrictive in the future;
- Delete subsection (11) (lines 167-171). This is purely procedural and should be covered by a standing order rather than a statute.

We do believe that it would be helpful to have the other provisions of the standing order, which are more substantive, in statute. In particular, subsection (3) would address one of the issues we are experiencing in the Foreclosure Mediation Program – that communication with the large national servicers and banks is difficult. If contact information is given and a person can be reached prior to mediation, the first stage of the resolution process (paperwork submission) could begin sooner. If a lender has received the information it has requested from the borrower, the first mediation session could be more productive, allowing for possible resolution of the foreclosure in fewer mediation sessions. Currently the first, if not the first few, mediation sessions are spent coordinating the exchange of financial documents to the appropriate contact person at the lender. Fewer and more productive mediation sessions would better utilize the resources of the Judicial Foreclosure Mediation Program and lessen the burden and stress on homeowners.

Thank you for your consideration.